



03/17/97

ATS-032 CON/REISSUE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Reissue Application of)
 SATOSHI KONO ET AL.)
 U.S. PATENT NO. 5,465,635)
 Serial No. 08/243,526)
 Filed: May 16, 1994)
 Issued: November 14, 1995)
 For: CRANKSHAFT ASSEMBLY FOR)
 INTERNAL COMBUSTION ENGINE)

Group Art Unit: 3502

Examiner: V. Luong

DECLARATION BY NONINVENTOR IN SUPPORT OF
REISSUE UNDER 37 CFR § 1.175(b)

Assistant Commissioner for Patents
 Washington, D.C. 20231

Sir:

I, Ronald P. Kananen, hereby declare as follows:

1. I am an attorney registered to practice before the
 U.S. Patent and Trademark Office under Registration No. 24,104.

2. I was responsible for handling the prosecution in
 the U.S. Patent and Trademark Office of U.S. Patent Application
 Serial No. 07/485,659, filed February 27, 1990, and U.S. Patent
 Application Serial No. 08/243,526, filed May 16, 1994. These
 applications led to the issuance of U.S. Patent No. 5,465,635 on
 November 14, 1995, which the applicants now seek to have reissued

to correct certain errors therein.

3. This declaration will corroborate and support certain allegations made in the Reissue Declaration filed on April 9, 1996.

4. I believe the original patent to be partly or wholly inoperative because of error, without deceptive intention, by reason of the applicants claiming less than they had a right to claim in the patent.

5. I believe the errors which render the patent wholly or partly inoperative or invalid arose from inadvertence, accident or mistake, and without any fraudulent or deceptive intention on my part or on the part of the applicants.

6. On January 16, 1993, I mailed a letter to the applicants' Japanese patent representatives, ISP Corporation, attention Mr. K. Takanashi, enclosing an Examiner's Answer mailed on January 13, 1993 in the applicants' parent application Serial No. 07/243,526. The deadline for the appellant's reply brief was February 13, 1993.

7. On February 11, 1993, I mailed a letter to the

applicants' Japanese patent representatives, ISP Corporation, attention Mr. T. Suzuki, enclosing a copy of the Reply Brief filed on February 11, 1993 in response to the Examiner's Answer dated January 13, 1993.

8. In mid-March, 1993, I received a copy of a letter dated March 3, 1993, from ISP Corporation, enclosing two documents (JP 63-190639 and JP 1-67352) for filing in an IDS. On March 18, 1993, I mailed a letter to the applicants' Japanese patent representatives, ISP Corporation, attention Mr. T. Suzuki, to explain the procedure for submitting the documents in an IDS after final rejection by certification. I also explained in this letter that the '352 document could be overcome by filing certified translations of the applicants' priority documents.

9. On March 26, 1993, I received a facsimile letter from Mr. T. Suzuki of ISP Corporation indicating that certification of the documents was not available, and asking that the documents be submitted for consideration in a later application after a decision on the then pending appeal.

10. On August 23, 1993, I mailed a letter to Mr. T. Suzuki of ISP Corporation, enclosing a copy of a Notice of Hearing and Confirmation of Hearing Attendance filed with the PTO

on August 11, 1993.

11. On September 16, 1993, I received a facsimile letter from Mr. T. Suzuki of ISP Corporation requesting attendance at the Oral Hearing scheduled on October 7, 1993.

12. On October 8, 1993, I mailed a letter to Mr. T. Suzuki of ISP Corporation reporting my associate's attendance at the oral hearing on October 7, 1993, before the Board of Patent Appeals and Interferences.

13. On January 23, 1994, I mailed a letter to Mr. T. Suzuki of ISP Corporation, enclosing a copy of the decision of the Board of Patent Appeals and Interferences. Mr. Suzuki of ISP Corporation advised on February 1, 1994 that he had received the decision.

14. On January 30, 1994, I received a facsimile letter from Mr. T. Suzuki of ISP Corporation, advising me that the applicants planned to prepare a proposed amendment for timely submission before March 5, 1994 under 37 CFR § 1.196(b).

15. On February 3, 1994, I received a facsimile letter from Mr. T. Suzuki of ISP Corporation, enclosing a proposed amendment for filing under 37 CFR § 1.196(b) following the Board's decision. This proposed amendment included, among other

things, the following limitation to be added to independent claim 11:

wherein each of said elastic member, said flywheel body and said reinforcing member comprises a first portion, said first portion of said flywheel body being placed axially between said first portions of said elastic plate and said reinforcing member, and said first portion of said flywheel body being axially movable between said first portions of said elastic plate and said reinforcing member.

16. On February 15, 1994, I filed an Amendment Under 37 C.F.R. § 1.196(b) and Information Disclosure Statement in the U.S. Patent and Trademark Office. This Amendment included, among other things, the same limitation added to claim 11 as set forth in the immediately preceding paragraph. I sent a letter to Mr. T. Suzuki of ISP Corporation on February 15, 1994 reporting these filings.

17. On May 18, 1994, I sent a letter to Mr. T. Suzuki of ISP Corporation, enclosing copies of a Notice of Non-entry of Amendment dated April 14, 1994, and an Examiner Interview Summary Record dated April 25, 1994. In this letter, I also advised Mr. T. Suzuki that a file wrapper continuation application under 37 CFR § 1.62 was filed on May 16, 1994.

18. On January 5, 1995, I sent a letter to Mr. T.

Suzuki of ISP Corporation, enclosing a copy of the initial Office Action mailed on December 27, 1994, in U.S. Patent Application No. 08/243,526.

19. In late February, 1995, I received a letter dated February 14, 1995 from Mr. T. Suzuki of ISP Corporation, enclosing a proposed amendment for filing in response to the Office Action dated December 27, 1994. This proposed amendment included, among other things, adding the following phrase to the last paragraph of claim 11:

said first portions of said elastic plate, said flywheel body and said reinforcing member defining clearances for allowing

This amendment to claim 11 was proposed to overcome the § 112 rejection of claim 11 set forth on page 3 of the Office Action dated December 27, 1994. The proposed amendment also included amending claim 14 to include the same limitation as found in the last paragraph of claim 11.

20. On March 27, 1995, I mailed a letter to Mr. T. Suzuki of ISP Corporation reporting the filing of an Amendment on the same date. The Amendment filed on March 27, 1995 added the same limitations to claims 11 and 14 as described in the immediately preceding paragraph, as proposed in Mr. T. Suzuki's letter of February 14, 1996.

21. A Notice of Allowance was mailed April 3, 1995, which was reported in a letter from me to Mr. T. Suzuki dated April 11, 1995. Allowed claims 11 and 14, which each included the limitations mentioned above in their last paragraph, correspond to claims 1 and 8 of the applicants' issued U.S. Patent No. 5,465,635.

22. On June 29, 1995, I mailed a letter to Mr. T. Suzuki of ISP Corporation confirming that the issue fee had been timely paid in the allowed application. On November 2, 1995, I mailed a letter to Mr. T. Suzuki of ISP Corporation enclosing a copy of the Issue Notification indicating that the allowed application was set to issue as U.S. Patent No. 5,465,635 on November 14, 1995.

23. On November 21, 1995, I mailed a letter to Mr. T. Suzuki of ISP Corporation, enclosing a copy of the issued '635 patent.

24. On December 5, 1995, I received a facsimile letter from Mr. T. Suzuki of ISP Corporation asking for advice about filing a reissue application to enlarge the scope of the claims. In this letter, Mr. Suzuki enclosed, among other things, a copy of the attached Figs. A, B, and C, which illustrate variations of

a flywheel assembly considered important to the client company, but not covered by any of the claims in the issued '635 patent. Though inadvertence, accident, or mistake, and without deceptive intention, I did not realize that the claims in the issued '635 patent were partly inoperative for not covering the flywheel assembly variations shown in the attached Figs. A, B, and C, until this was brought to my attention in Mr. Suzuki's letter of December 5, 1995.

25. On December 6, 1995, I mailed a letter to Mr. T. Suzuki of ISP Corporation, confirming that the reissue process is the only way to broaden the claims in the issued '635 patent. In this letter, I also explained the requirement that the reissue declaration include a detailed explanation as to how, when, and under what circumstances the errors in the issued '635 patent occurred and were discovered.

26. On January 22, 1996, I received a facsimile letter from Mr. T. Suzuki of ISP Corporation, enclosing a proposed amendment for reissue, and a detailed explanation about how and when the errors in the '635 patent were made and discovered.

27. Based on the information in Mr. T. Suzuki's letter of January 22, 1996, and additional details provided in a

facsimile letter from Mr. T. Suzuki dated February 23, 1996, my office prepared a draft reissue application, including a reissue declaration, which was sent to Mr. T. Suzuki on February 23, 1996. This reissue application was executed by the inventors and returned in a letter from Mr. T. Suzuki dated April 4, 1996. I then filed the reissue application in the U.S. Patent and Trademark Office on April 9, 1996.

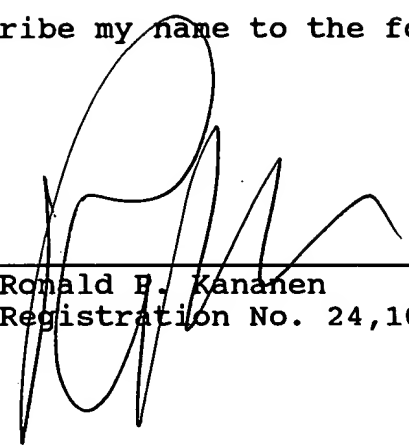
28. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

U.S. Patent No. 5,465,635
Art Unit: 3502

Reissue Application

Wherefore, I hereby subscribe my name to the foregoing
Declaration.

Date: March 17, 1997



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